

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

United States of America,

Plaintiff,

VS.

Eldercare Home Health & Hospice,

Defendant.

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Civil Action B-19-66

(CDCS: 2018A62191/2018A62169/2018A62153/
2018A62202/2018A62214/2018A62218/
2018A62170/2018A62228/2018A2223/
2018A62204)

Complaint

1. *Jurisdiction.* The district court has jurisdiction because the United States is a party. *See* U.S. CONST., art III, § 2, and 28 U.S.C. § 1345.
2. *Venue.* The principal place of business of defendant is in Cameron County, Texas, and it may be served with process by serving its registered agent, Rebecca Hernandez, at 1835 S. Sam Houston Street, San Benito, Texas 78586.
3. *The Debt.* The debts owed to the United States arose through U.S. Health & Human Services delinquency of overpayments. The debt on the date of the Certificate of Indebtedness was:

(A) CDCS 2018A62191

A.	Current principal	\$	434,062.55
B.	Interest (capitalized and accrued)	\$	50,547.19
C.	Administrative fees, costs, penalties (Including \$400.00 Filing fee)	\$	400.00

D.	Balance due	\$	<u>485,009.74</u>
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E. Prejudgment interest accrues at 10.37% per annum being \$118.65 per day.

(B) CDCS 2018A62169

A.	Current principal	\$	475,209.86
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B.	Interest (capitalized and accrued)	\$	116,299.77
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C.	Administrative fees, costs, penalties	\$	0.00
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D.	Balance due	\$	<u>591,509.63</u>
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E. Prejudgment interest accrues at 10.37% per annum being \$118.65s per day.

(C) CDCS 2018A62153

A.	Current principal	\$	479,883.16
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B.	Interest (capitalized and accrued)	\$	149,699.75
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C.	Administrative fees, costs, penalties	\$	0.00
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D.	Balance due	\$	<u>629,582.91</u>
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E. Prejudgment interest accrues at 10.50% per annum being \$135.60 per day.

(D) CDCS 2018A62202

A.	Current principal	\$	78,435.50
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B.	Interest (capitalized and accrued)	\$	23,771.26
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C.	Administrative fees, costs, penalties	\$	0.00
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D.	Balance due	\$	<u>102,206.76</u>
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E. Prejudgment interest accrues at 10.50% per annum being \$21.79 per day.

(E) CDCS 2018A62214

A.	Current principal	\$	35,679.23
B.	Interest (capitalized and accrued)	\$	7,535.47
C.	Administrative fees, costs, penalties	\$	0.00
D.	Balance due	\$	<u>43,214.70</u>

E. Prejudgment interest accrues at 10.00% per annum being \$9.45 per day.

(F) CDCS 2018A62218

A.	Current principal	\$	4,524.08
B.	Interest (capitalized and accrued)	\$	743.40
C.	Administrative fees, costs, penalties	\$	0.00
D.	Balance due	\$	<u>5,267.48</u>

E. Prejudgment interest accrues at 10.00% per annum being \$1.24 per day.

(G) CDCS 2018A62170

A.	Current principal	\$	13,629.66
B.	Interest (capitalized and accrued)	\$	2,878.59
C.	Administrative fees, costs, penalties	\$	0.00
D.	Balance due	\$	<u>16,508.25</u>

E. Prejudgment interest accrues at 10.00% per annum being \$3.61 per day.

(H) CDCS 2019A62228

A.	Current principal	\$	9,120.94
B.	Interest (capitalized and accrued)	\$	1,546.31
C.	Administrative fees, costs, penalties	\$	0.00
D.	Balance due	\$	<u>10,667.25</u>

E. Prejudgment interest accrues at 9.75% per annum being \$2.40 per day.

(I) CDCS 2018A62223

A.	Current principal	\$	2,712.54
B.	Interest (capitalized and accrued)	\$	529.57
C.	Administrative fees, costs, penalties	\$	0.00
D.	Balance due	\$	<u>3,242.11</u>

E. Prejudgment interest accrues at 9.75% per annum being \$0.70 per day.

(J) CDCS 2018A62204

A.	Current principal	\$	3,753.24
B.	Interest (capitalized and accrued)	\$	719.15
C.	Administrative fees, costs, penalties	\$	0.00
D.	Balance due	\$	<u>4,472.39</u>

E. Prejudgment interest accrues at 9.75% per annum being \$0.70 per day.

Total Due (CDCS 2018A62191, 2018A62169, 2018A62153, 2018A62202,

2018A62214, 2018A62218, 2018A62170, 2018A62228, 2018A62223 and

2018A62204). \$ 1,891,681.22

F. The current principal in paragraph 3(A)A, 3(B)A, 3(C)A, 3(D)A, 3(E)A, 3(F)A, 3(G)A, 3(H)A, 3(I)A, and 3(J)A is after credits of \$900.00.

4. *Default.* The United States has demanded that the defendant pay the indebtedness, and the defendant has failed to pay it.

5. *Prayer.* The United States prays for judgment for:

- A. The sums in paragraph 3, pre-judgment interest, administrative costs, and post-judgment interest.
- B. Other relief the court deems proper.

Respectfully submitted,

CERSONSKY, ROSEN & GARCÍA, P.C.

By: /s/ M. H. Cersonsky

M. H. Cersonsky, TBN: 04048500

1770 St. James Place, Suite 150

Houston, Texas 77056

Telephone: (713) 600-8500

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Attorneys for Plaintiff



U.S. DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
U.S. HEALTH & HUMAN SERVICES
CERTIFICATE OF INDEBTEDNESS

Eldercare Home Health and Hospice
1836 S Sam Houston Street, Ste D
San Benito, Texas 78586
EIN: 74-2553207

I hereby certify, as part of my duties with the U.S. Department of the Treasury (Treasury), including referring matters to the U.S. Department of Justice (DOJ) for litigation, I am a custodian of records of certain files sent by the U.S. Department of Health and Human Services (HHS), Medicare and Medicaid Services (CMS) to Treasury for collection actions. As a custodian of records for Treasury, I have care and custody of records relating to the 10 debts owed by Eldercare Home Health and Hospice (DEBTOR) to HHS.

The information contained in this Certificate of Indebtedness is based on documents created by an employee or contractor of HHS based on his/her knowledge at or near the time the events were recorded, including the review of the delinquency of overpayments, or by an employee or contractor of Treasury based on his/her knowledge at or near the time the events were recorded, including the review of the delinquency of overpayments. Treasury's regular business practice is to receive, store and rely on the documents provided by HHS, when, debts are referred to Treasury for collection activities, including litigation.

HHS referred the claims to Treasury's Bureau of the Fiscal Service, Debt Management Services (DMS) for litigation and collection between June 2015 and August 2016. Further, I certify that I am familiar with Treasury's record keeping practices, including the receipt of files from HHS.

1500161146 – Case #1

On 12/4/2012, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$424,139.07 with an annual interest rate of 10.37%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail. On 6/19/2015, DMS sent a demand letter advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$484,609.74 with daily interest of \$118.65. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$434,062.55
Interest (@10.37%):	\$ 50,547.19
Total:	\$484,609.74





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1500326785 – Case #2

On 1/2/2014, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$428,458.24 with an annual interest rate of 10.12%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail. On 12/11/2015, DMS sent a demand letter advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection debt in the amount due of \$591,509.63 with daily interest of \$118.65. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$475,209.86
Interest (@10.37%):	\$116,299.77
Total:	\$591,509.63

1500203925 – Case #3

On 3/17/2015, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$471,363.10 with an annual interest rate of 10.50%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail. On 8/12/2015, DMS sent a demand letter advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$601,107.42 with daily interest of \$135.60. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$479,883.16
Interest (@10.50%):	\$149,699.75
Total:	\$629,582.91

1500220404 – Case #4

On 3/31/2015, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$75,741.00 with an annual interest rate of 10.50%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail. On 8/21/2015, DMS sent a demand letter advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$102,206.76 with daily interest of \$21.79. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$ 78,435.50
Interest (@10.50%):	\$ 23,771.26
Total:	\$102,206.76



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1600199010 – Case #5

On 1/14/2016, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$34,510.00 with an annual interest rate of 10.00%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$43,214.70 with daily interest of \$9.45. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$ 35,679.23
Interest (@10.00%):	\$ 7,535.47
Total:	\$ 43,214.70

1600199008 – Case #6

On 1/14/2016, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$5,070.00 with an annual interest rate of 10.00%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment. On 9/29/16, the DEBTOR made contact and agreed to make \$900.00 per month payments for six months until paid in full but needed additional time to say when payments would begin. On 10/5/16, the DEBTOR contacted HHS stating payments could begin and automatically deducted monthly. On 10/20/16, a payment of \$900.00 was made. On 10/27/16, the DEBTOR contacted HHS to cancel the automatic payments as they would file paperwork disputing this debt. In December 2016, HHS made a credit adjustment in the amount of \$70.14.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$5,267.48 with daily interest of \$1.24. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$ 4,524.08
Interest (@10.00%):	\$ 743.40
Total:	\$ 5,267.48

1600198892 – Case #7

On 1/14/2016, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$13,183.00 with an annual interest rate of 10.00%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$16,508.25 with daily interest of \$3.61. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:



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Principal:	\$ 13,629.66
Interest (@10.00%):	\$ 2,878.59
Total:	\$ 16,508.25

1600234368 - Case #8

On 2/22/2016, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$9,002.70 with an annual interest rate of 9.75%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$10,667.25 with daily interest of \$2.40. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$ 9,120.94
Interest (@9.75%):	\$ 1,546.31
Total:	\$ 10,667.25

1600260822 - Case #9

On 3/4/2016, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$2,625.82 with an annual interest rate of 9.75%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$3,242.11 with daily interest of \$0.70. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$ 2,712.54
Interest (@9.75%):	\$ 529.57
Total:	\$ 3,242.11

1600276255 - Case #10

On 3/18/2016, HHS determined the DEBTOR delinquent for an overpayment in the amount of \$3,633.22 with an annual interest rate of 9.75%, for CMS services rendered. HHS sent the DEBTOR letters advising of the overpayment and requesting payment but to no avail.

On August 16, 2018, DMS referred the claim to DOJ for litigation and collection in the amount due of \$4,472.39 with daily interest of \$0.70. As of August 16, 2018, the DEBTOR is indebted to the United States in the amounts stated as follows:



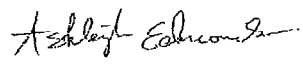
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Principal:	\$ 3,753.24
Interest (@9.75%):	\$ 719.15
Total:	\$ 4,472.39

The balances stated in the cases listed above are current as of August 16, 2018, including any applicable interest, penalties, administrative fees, and DMS & DOJ fees (pursuant to 31 U.S.C. 3717(e) and 3711(g)(6), (7); 31 C.F.R. 285.12(j) and 31 C.F.R. 901.1(f); and 28 U.S.C. 527, note).

Pursuant to 28 U.S.C. § 1746(2), I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief based upon information provided by the HHS and information contained in Treasury's records.

X 

August 16, 2018

Signed by: Ashleigh N. Edmonds

Ashleigh Edmonds
Financial Program Specialist
U.S. Department of the Treasury
Bureau of the Fiscal Service